



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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B-178216

September 24, 1973

Cummins Diesel Engines, Inc.  
3140 Washington Boulevard  
Baltimore, Maryland 21230

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Attention Mr. D. R. Marshall

Gentlemen:

We refer to your letter of July 3, 1973, and prior correspondence, protesting against the award of a contract to Johnson & Womers, Inc. (Johnson), under invitation for bids No. All-137-933-00, issued by the United States Coast Guard, Department of Transportation.

The invitation solicited bids for the supply of ships service diesel generator sets, generator controls and AC power distribution switchboards for installation in Coast Guard vessels. Bids were to be submitted in accordance with the provisions of specification EME 24-72, dated April 10, 1972.

Section 4 of the specification enumerated the requirements for the switchboard and stated in subsection 4.1 that:

"The description of the switchboard in the following paragraphs specifies general features and arrangement. Details of arrangements and connections, dimensions and design characteristics shall be developed by the Contractor."

It is your contention that Johnson's bid was nonresponsive because it did not include a sketch or catalog sheet showing the arrangement of the switchboard as required by paragraph 4.1 of the specifications. This paragraph, entitled Bid Information, stated:

"In addition to the bid form, bidders shall submit in triplicate type plans, sketches, or catalog sheets marked up as necessary showing the

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arrangement and overall dimensions of the diesel generator sets and switchboard being offered, including accessories and ancillary equipment. In addition all data below shall be filled in. Bids which fail to include this information will be considered non-responsive."

Johnson submitted with its bid drawing 284-325 marked up as necessary to show the arrangement and overall dimensions of the diesel generator. It also furnished a letter which included the overall physical dimensions and manufacturer's name of the "control and distribution panel" (switchboard), and a statement that the panel would be in complete accordance with the specifications.

The contracting officer determined that the information submitted by Johnson was sufficient to meet the requirements of the invitation; and that it provided all the information necessary for the Government to determine whether the bid was in compliance with the specification requirements. His report states that the intent of paragraph 11.1 was to indicate bidder compliance with the specification requirements with respect to the overall size limitations referred to in paragraph 3.1.3 and 4.1.2 (which specified respectively the maximum dimensions for the diesel generator and the switchboard).

We have consistently held that the question of whether data and information required to be submitted by bidders for Government contracts meets the data-furnishing requirements in the invitation is a factual one primarily for determination by the procuring agency and when a good-faith explanation is given by the procuring agency indicating that the information meets the invitation requirements, a contrary conclusion will not be made. 43 Comp. Gen. 77 (1933).

Part 4 of the specifications gives considerable detail with respect to the arrangement of the switchboard. As noted, Johnson agreed to comply fully with the specifications. We think that Johnson might have included a rough sketch showing the arrangement of dials, meters, switches, etc. on the face of the switchboard. However, since the solicitation left the details of the arrangement to the contractor and the general arrangement was already specified, we are not disposed to contest the agency determination that the sketch was not necessary, and would not serve any useful purpose. We do not believe that a bid should be held nonresponsive for failure to submit

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information which would not serve a useful purpose. For solicitations to include apparently mandatory requirements which are not to be enforced is improper since competition may be adversely affected. However, since no such adverse result is apparent here, we find no basis to interfere with the procurement on that score.

Consequently, your protest is denied. However, we are suggesting by letter of today to the Secretary of Transportation that in future similar procurements descriptive data not be called for unless determined to be necessary.

Since the award was not improper, it is not necessary for us to consider whether your bid was nonresponsive.

Sincerely yours,

Paul G. Dombing

For the Comptroller General  
of the United States